

**Legislative Briefings by John Warren Kindt\***  
**Before the Hawaii State Legislature, Capitol Building**  
**Honolulu, Hawaii**  
**Feb. 9-12, 2009**

Mr. Speaker of the House, President of the Senate, Honorable Committee Chairs,  
Members of the Hawaii Legislature, and Administration Officials:

The issues and concomitant recommendations which this analysis addresses in summary format include:

- a. a summary of relevant conclusions of the U.S. National Gambling Impact Study Commission (sponsored by U.S. Senator Paul Simon);
- b. limits on numbers of electronic gambling devices (EGDs)/slot machines which constitute 80%-90% of casino net revenues;
  1. state limits (casino monopolies vs. consumer businesses),
  2. state prohibitions of casinos,
  3. state ownership of casinos,
- c. the "Untouchables"\*\*. Standard: New crime caused by increased gambling, up 8% per year, and
- d. the new taxpayer costs caused by increased gambling.

\*Professor of Business & Legal Policy, Univ. Ill.; A.B. 1972, William & Mary, J.D. 1976, MBA 1977, Univ. Ga.; LL.M. 1978, SJD 1981, Univ. Va. (for ident. purposes only). Professor Kindt's own academic publications are referenced in this analysis only to provide introductions to the hundreds of source materials cited in the footnotes and to facilitate researchers wishing to reference specialized topic areas. Portions of this statement were excerpted from: *Internet Gambling Prohibition Act of 2006: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary*, 109th Cong., 2d Sess. 20, *et seq.* (2006) (prepared statement of Prof. John W. Kindt, Univ. Ill.); Statement of Prof. John W. Kindt, Univ. Ill., Hearing Before the Mo. Joint Legislative Comm. on Gambling, Jefferson City, Mo., Nov. 22, 2005. Since the issues for Hawaii are similar to those in other states, this legislative briefing is largely verbatim from: Statement of John Warren Kindt, Before the Illinois House of Representatives Comm. of the Whole, Capitol Building, Springfield, Ill., July 9, 2008. These materials were edited by Adam Langowski.

\*\*\*"The Untouchables"™, Reg. & Copyright, Paramount Pictures, Inc.

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*A. The U.S. National Gambling Impact Study Commission, sponsored by U.S. Senators Paul Simon and Richard Lugar, concluded:*

1. There should be a moratorium on the expansion of any type of gambling anywhere in the United States (introduction);
2. States "should cease and rollback" (i.e., recriminalize) existing electronic gambling devices (EGDs)/slot machines convenient to the public (recommendation 3.6); and
3. States should not introduce EGDs/slot machines to racetracks to try and revitalize them (recommendation 3.12).

NAT'L GAMBLING IMPACT STUDY COMM'N, FINAL REPORT recommendations (June 1999) [hereinafter NGISC FINAL REPORT], at <http://govinfo.library.unt.edu/ngisc>.

The "impact statements" or "benefit/benefit statements" often utilized by pro-gambling interests are invalid for statewide decision-making. "Costs/benefits statements" are the proper methodological vehicles for valid decision-making. Proposals for expanded gambling consistently fail academic costs/benefits analyses. EARL L. GRINOLS, GAMBLING IN AMERICA: COSTS AND BENEFITS (Cambridge Univ. Press 2004) [hereinafter GAMBLING IN AMERICA: COSTS AND BENEFITS].

*B. State Ownership of Casinos, Prohibition of Casinos,  
Limited Slot Machines for Casinos  
(Casino Monopolies vs. Consumer Businesses)*

Basic economic principles dictate that casino-style gambling cannibalizes the consumer economy. *See generally*, Nobel Prize Laureate in Economics, Paul Samuelson: PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, *ECONOMICS* 208-09 (17th ed. 2001); PAUL SAMUELSON, *ECONOMICS* 398 (11th ed. 1980). *See also*, John W. Kindt & John K. Palchak, *Legalized Gambling's Destabilization of U.S. Financial Institutions and the Banking Industry: Issues in Bankruptcy, Credit, and Social Norm Production*, 19 EMORY U. BANKRUPTCY DEV. J. 21-69 (2002) (lead article).

States which have no gambling or extremely-limited gambling have better consumer economies and tax revenues than states with multiple gambling mechanisms. *See, e.g.*, John W. Kindt, *Diminishing or Negating The Multiplier Effect: The Transfer of Consumer Dollars to Legalized Gambling: Should a Negative Socio-Economic "Crime Multiplier" be Included in Gambling Cost/Benefit Analyses?*, 2003 MICH. ST. DCL L. REV. 281-313 (2003) (lead article) [hereinafter *Gambling's Crime Multiplier Effect*].

These business-economic principles have been exemplified by Utah and its former Governor Mike Leavitt. For years, Governor Leavitt marketed his state specifically as a "nongambling state" and therefore, as a prime location for high-tech and Fortune 500 Companies. He attributed the state's generally nation-leading statistics in new job creation and personal income growth to being a "nongambling state." John W. Kindt, *The Negative Impacts of Legalized Gambling on Businesses*, 4 U. MIAMI BUS. L.J. 93, 121-22 (1994) (lead article).

The value of each casino license is generally between \$250 million and \$500 million. *See*, JEFFREY HOOKE, MARYLAND TAX EDUC. FOUNDATION, *ARE THE LICENSE FEES TOO LOW?* (Feb. 11, 2003) [hereinafter *TAX FEES TOO LOW*]. States which received less than these amounts short-changed the state taxpayers (such as Illinois which charged \$25,000 plus minimal background fees). *TAX FEES TOO LOW, infra*.

Each EGD/slot machine averages a \$100,000 per year net win to the gambling facility. Except for some state/local tax revenues and some local expenditures, most of these dollars leave the state and regional economies. With a typical consumer economic multiplier of "three," this \$100,000 translates into \$300,000 in lost consumer spending (or approximately one "lost job" per EGD/slot machine). For in-depth analyses of lost jobs in Illinois, see *National Gambling Impact & Policy Comm'n Act: Hearing on H.R. 497 Before the House Comm. on the Judiciary*, 104th Cong., 1st Sess. 370-405 (1995) (prepared statement of Econ. Prof. Earl L. Grinols, Univ. Ill.) [hereinafter *Cong. Hearing 1995 on Gambling*]; Earl L. Grinols, *Bluff Or Winning Hand? Riverboat Gambling and Regional Employment and Unemployment*, 51 ILL. BUS. REV. 8, *et seq.* (1994) [hereinafter *Regional Employment and Unemployment*].

This lost consumer spending also translates into concomitant losses in sales taxes and other consumer-oriented tax revenues. These consumer losses combined with the 3:1 cost/benefit ratio for socioeconomic costs/revenue benefits has led jurisdictions (such as Canada) to own the casinos and thus retain all of the gambling dollars leaving the jurisdiction. In the sample case of Illinois, state ownership of the casinos would mean an extra \$1 billion less to the casino owners and \$1 billion more in tax revenues to Illinois. It should be noted, however, that the socioeconomic costs to the public would still outweigh the overall new revenues. Earl L. Grinols & David B. Mustard, *Business Profitability versus Social Profitability: Evaluating Industries with Externalities—The Case of Casinos*, 22 MANAGERIAL & DECISION ECON. 143, tables (2001) [hereinafter *The Costs of Casinos*]. The 3:1 cost/benefit ratio has been the ratio for many years. Compare, Statement of Professor John Warren Kindt, *The National Impact of Casino Gambling Proliferation: Hearing Before the House Comm. on Small Business*, 103d Cong., 2d Sess. 77-81 & nn. 9, 12 (1994), with *Congressional Hearing 2005, infra*.

After hearing these points made by experts on March 17, 2005, the State Government Administration Committee of the Illinois House favorably reported H.B. 1920 to the House for a vote to recriminalize Illinois casinos. The Committee vote was unanimous except for one dissenting vote. On October 27, 2005, the Illinois House of Representatives voted 67 to 42 (with 7 voting present) in favor of H.B. 1920, which then went to the Senate where the Senate leadership would not permit a vote.

C. "The Untouchables" Standard:  
New Crime Caused by Increased Gambling: Up 8% Per Year

Even with the best efforts of law enforcement, the regulatory history of casinos has been problematic. John W. Kindt, *The Failure to Regulate the Gambling Industry Effectively: Incentives for Perpetual Non-Compliance*, 27 S. ILL. U.L.J. 221-62 (2002) (lead article) [hereinafter *Failure to Regulate Gambling*]. See also, John W. Kindt, *U.S. National Security and the Strategic Economic Base: The Business/Economic Impacts of Legalized Gambling Activities*, 39 ST. LOUIS U.L.J. 567-84 (1995), reprinted in, *National Gambling Impact & Policy Comm'n Act: Hearing on H.R. 497 Before the House Comm. on the Judiciary*, 104th Cong., 1st Sess. (1995) [hereinafter *Cong. Hearing 1995 on Gambling*].

While pro-gambling interests traditionally argued that legalizing gambling would eliminate criminal elements associated with gambling, Congressional testimony by former organized crime member William Jahoda and by regulatory experts delimited that legalized casino gambling increases not only the base numbers of criminals, but also the opportunities for criminal elements. Statement and Testimony of William Jahoda, *Congressional Hearing 1995 on Gambling, infra*, at 60-89. See also, Statement of Mass. Attorney General Scott Harshbarger, *Congressional Hearing 1995 on Gambling, infra*. See generally, PRESIDENT'S COMM'N ON ORGANIZED CRIME, ORGANIZED CRIME AND GAMBLING (Hearing VII, N.Y., N.Y., June 24-26, 1985) (Chair, Irving R. Kaufman).

The proportionally largest FBI Fugitive Apprehension Program is not in New York City or Los Angeles, but in Las Vegas, Nevada. The results reported by the FBI Fugitive Apprehension Program constitute substantial support for the proposition that casino-style gambling actually attracts criminals.

In their 35-mile and 50-mile "feeder markets," the presence of casino-style gambling (which generally consists of 80 percent to 90 percent revenues from EGDs/slots) has been directly linked to crime increases of 8 percent on average—the third year after the gambling is legalized and initiated, and with continuing crime increases thereafter. Earl Grinols & David B. Mustard, *Casinos, Crime and Community Costs*, 88 REV. ECON. & STATISTICS 28, *et seq.* (© Harvard & Mass. Inst. Tech. 2006) [hereinafter *Casinos Crime Costs*].

Due to the many problematic regulatory areas associated with casino-style gambling and EGDs/slots, the most effective regulatory mechanisms are those directly monitored by state police. Alternative regulatory mechanisms have been historically less effective and even ineffectively corrupt, because the large cash amounts generated by casino-style gambling have catalyzed conflicts of interest by Gaming Boards and other regulatory organizations. See generally, *Cong. Hearing 1995 on Gambling, infra; Failure to Regulate Gambling, infra*.

Independent regulatory and academic guidance are essential. For complaints and examples of intimidation tactics utilized by pro-gambling interests against legislators, academics, and even the Chair of the Congressional National Gambling Impact Study

Commission, see John W. Kindt, *The Gambling Industry and Academic Research: Have Gambling Monies Tainted the Research Environment?*, 13 UNIV. S. CALIF. INTERDISCIPLINARY L.J. 1-47 (2003) (lead article).

Legislative hearings also need to be held on the “fairness” of the electronic gambling devices and slot machines. See, e.g., John W. Kindt, “*The Insiders*” for Gambling Lawsuits: *Are the Games “Fair” and Will Casinos and Gambling Facilities Be Easy Targets for Blueprints for RICO and Other Causes of Action?*, 55 MERCER L. REV. 529-93 (2004) (lead article); John W. Kindt, *Subpoenaing Information from the Gambling Industry: Will the Discovery Process in Civil Lawsuits Reveal Hidden Violations Including the Racketeer Influenced and Corrupt Organizations Act?*, 82 OREGON L. REV. 221-94 (2003) (lead article).

Fortune 500 Companies are not naïve. They avoid casino-gambling and EGDs/slots jurisdictions—just like they avoid high-crime areas. All states need thorough independent academic costs/benefits studies (not “impact” studies) before introducing or expanding legalized gambling activities to various venues.



#### D. The New Taxpayer Costs Caused by Increased Gambling

Increasing the numbers of EGDs/slot machines, as well as increasing the speed of the gambling, fuels the addictive behavior which leads people to gambling activities evincing the 10 problematic diagnostic criteria. AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, 615-18, sec. 312.31 (4th ed. 1994) (satisfying 5 or more criteria defines a pathological gambler). See also, NGISC FINAL REPORT, *infra*, at chapt. 4.

The faster people can gamble, the faster gamblers will get "hooked," and this phenomenon is substantiated by studies demonstrating that pathological and problem gamblers gravitate toward the faster methods of gambling (*i.e.*, EGDs) as evidenced by the high percentages of revenues EGDs generate from pathological and problem gamblers. See, *e.g.*, Henry R. Lesieur, *Gambling: Socioeconomic Impacts and Public Policy: Costs and Treatment of Pathological Gambling*, 556 ANNALS AM. ACAD. POL. & SOC. SCI. 153, 165 table 1 (1998); Prof. Henry R. Lesieur, Address at the National Conference on Gambling Behavior (Sept. 3-5, 1996). See also, S.C. Gwynne, *How Casinos Hook You: The Gambling Industry is Creating High-Tech Databases to Reel in Compulsive Players*, TIME, Nov. 17, 1997, at 68, 69.

Since 1994, it has been established that the socioeconomic costs are at least \$3 for every \$1 in benefits/revenues. *The Costs of Casinos, infra*, 143, tables.

Clinicians dealing with pathological (addicted) gamblers are too frequently unfamiliar with these academic determinations and studies.

In their casino-enabling legislation, states other than Missouri were misled by pro-gambling interests when those states neglected to include legislated "loss limits." The socioeconomic impacts generated by "loss limits" are effective in reducing the speed and processes by which new pathological and problem gamblers are created. See, *e.g.*, Frank L. Quinn, *First Do No Harm: What Could Be Done By Casinos to Limit Pathological Gamblers*, 22 MANAGERIAL & DEC. ECON. 133-42 (2001) [hereinafter *First Do No Harm*].

These scenarios have encouraged states, and specifically Illinois, to advance legislation to recriminalize casino gambling and to transform gambling facilities into educational and high-tech facilities—as has already occurred in Omaha, Nebraska. See, Illinois House Bill 1920 (passed House 67 to 42, 7 voting present, Oct. 27, 2005), no vote allowed in Illinois Senate, Jan. 2006. The U.S. Congress has noted these educational alternatives to casinos. See, *e.g.*, Testimony of Professor John Warren Kindt, Univ. Ill., Before the U.S. House of Representatives Comm. on Resources, 109th Cong., 1st Sess., Apr. 27, 2005 [hereinafter *Congressional Hearing 2005*]. See generally, John W. Kindt, *Would Re-Criminalizing U.S. Gambling Pump-Prime the Economy and Could U.S. Gambling Facilities Be Transformed into Educational and High-Tech Facilities? Will the Legal Discovery of Gambling Companies' Secrets Confirm Research Issues?*, 8 STANFORD J.L., BUS. & FIN. 169-212 (2003) (lead article).